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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,575	07/07/2003	Lenny Wong	1261.003US2	7467

21186 7590 05/13/2004

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 05/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,575

Applicant(s)

WONG ET AL.

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 12-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/7/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11, drawn to a window assembly, classified in class 049, subclass 185.
- II. Claims 12-20, drawn to a method of making a latch operator, classified in class 049, subclass 506.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process such as threading the filament through the opening of the winder.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Catherine I. Klima-Silberg on May 5, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-11. Affirmation of this election must be made by applicant in replying to this Office action. Claims 12-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

The drawings are objected to because the lettering in figures 1-4 should be replaced with the customary reference numerals and lead lines. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because the status of the parent application no. 09/450,648 has not been updated.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 4 and 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Recitations such as "the opening is perpendicular to the first plane" on lines 1-2 of claim 4 render the claims indefinite because it is unclear what the applicant is attempting to set forth. Is the applicant setting forth that the opening faces the plane or that the opening faces in a direction perpendicular to the plane. Note that the applicant has set forth only one opening in one wall of the winder rather than the two shown in the figures. Recitations such as "self-balancing flexible cord" on line 11 of claim 7 render the claims indefinite because it is unclear what the applicant is attempting to set forth. Is the cord itself self-balancing or the combination of the elements make the cord self-balancing? Additionally, what is meant by "self-balancing"? Is the cord able to balance about a fulcrum point.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 3-5, 7, 8 and 10 are rejected under 35 U.S.C. 102(a) as being anticipated by Sheldon et al. Sheldon et al. disclose a window assembly comprising a window sash 14 movably mounted within a window frame 18, the window sash defining a first plane, latches 20, 22 movable coupled with the window sash, a winder 54 disposed within a portion of the window sash, the winder having a first unactivated position and a second activated position, in the second activated position the latches

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are substantially withdrawn within the window sash allowing the window sash to be at least partially removed from the window frame, the winder having an opening 60 therein, the opening having at least a first width (not numbered, but comprising the upper portion of the opening 60) and a second width 64, the first width different than the second width, a flexible cord 62 (see column 5, lines 12-13) slidably received within the opening, the flexible cord passes freely through the opening of the winder, the opening of the winder has a third width (not numbered, but shown in figure 1 as the generally rectangular indentation at the distal end of the winder) which is perpendicular to the first plane when the winder is disposed in the unactivated position.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheldon et al. as applied to claims 1, 3-5, 7, 8 and 10 above, and further in view of Dove et al. Dove et al. discloses rotatable planar blade members 25 and 25'.

It would have been obvious to one of ordinary skill in the art to provide Sheldon et al. with rotatable planar members, as taught by Dove et al. reduce the amount of movement required to move the members between the active and inactive positions.

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Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sheldon et al. as applied to claims 1, 3-5, 7, 8 and 10 above, and further in view of Eichstadt. Eichstadt discloses a latch assembly comprising a winder having an opening with a portion thereof being circular.

It would have been obvious to one of ordinary skill in the art to provide Sheldon et al. with a circular opening, as taught by Eichstadt, to better accommodate the cylindrical shape of the cord.

Allowable Subject Matter

Claim 2 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach a window assembly wherein the flexible cord has a diameter greater than one of the first width or the second width.

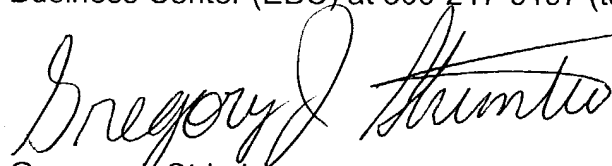
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Metzger is cited for disclosing rotatable blade members. Sharp, Carballo, Thompson and Frisbie are cited for disclosing a latch operator comprising a cord slidingly received within opening of the latch operator.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", is written over a horizontal line.

Gregory J. Strimbu
Primary Examiner
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May 7, 2004